

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MONSANTO COMPANY and
MONSANTO TECHNOLOGY LLC,

Plaintiffs/Counterclaim
Defendants,

v.

E.I. DU PONT DE NEMOURS AND CO. and
PIONEER HI-BRED INTERNATIONAL, INC.,

Defendants/Counterclaim
Plaintiffs.

Case No. 09-cv-0686 (ERW)

DEFENDANTS' MOTION TO COMPEL

Defendants E.I. du Pont de Nemours and Company and Pioneer Hi-Bred International, Inc. (collectively "DuPont") respectfully move the Court for an order compelling Plaintiffs Monsanto Company and Monsanto Technology LLC (collectively "Monsanto") to produce certain documents in response to DuPont's discovery requests. This motion to compel is directed to nine discrete categories of documents:

- specific documents concerning the research and development efforts underlying the work and disclosures described in United States Reissue Patent 39,247E (the "247RE patent").
- specific documents concerning research and development of related work into glyphosate tolerance.
- documents concerning the scientific articles identified in the Second Amended Answer and Counterclaims ("SAAC");

- Monsanto's regulatory documents concerning Roundup Ready products, or any other product allegedly covered by the '247RE patent;
- Monsanto's decision concerning the inclusion of SEQ ID NO:70 in the '696 application;
- documents concerning the scope of the claims of the patent-in-suit and the products those claims cover;
- documents concerning secondary indicia of non-obviousness;
- documents concerning the negotiation and drafting of the Yieldgard agreement; and
- previously compelled documents concerning prior litigations.

DuPont incorporates by reference its memorandum in support filed concurrently herewith.

Pursuant to Local Rule 3.04, the parties have participated in several meet and confers and sent numerous letters over the course of several months in a good faith attempt to resolve several discovery issues, including those at issue in the present motion. The parties had a final meet and confer on October 22, 2010 to resolve these issues but were unable to do so. As Monsanto continues to maintain objections that are not well founded, DuPont is forced to seek relief in the present motion.

WHEREFORE, DuPont respectfully moves the Court for an Order compelling Monsanto to produce documents in response to DuPont's discovery requests identified in this motion and the accompanying memorandum in support within 10 days of the Court's Order.

Dated: October 27, 2010

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 27, 2010, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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